



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 17-045  
Preliminary Plan No. 120110280  
6413 Orchard Avenue  
Date of Hearing: June 1, 2017

JUN 13 2017

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on June 8, 2011, Scott Siegal, Orchard Road Parcel B, LLC, (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot for 3,978 square feet of wholly enclosed warehouse uses on 0.21 acres of land in the CRT-2.25 C-1.5 R-0.75 H-50 and Takoma Park/East Silver Spring Commercial Revitalization Overlay (“CRO”) zones, located at on Orchard Avenue approximately 165 feet west of the intersection with Sligo Mill Road in the City of Takoma Park (“Subject Property”), in the *Takoma Park Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120110280, 6413 Orchard Avenue (“Preliminary Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 18, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 1, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 1, 2017, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Dreyfuss, Gonzalez, and Wells-Harley voting in favor with Commissioner Cichy absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120110280 to create one (1) lot for 3,978 square feet of wholly enclosed warehouse uses on the Subject Property. All site development elements shown

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
MNCPPC Legal Department  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

on the Preliminary Plan stamped "Received" by the M-NCPPC on November 14, 2016 are required except as modified by the following conditions:<sup>1</sup>

1. This Preliminary Plan is limited to 1 lot for a warehouse building up to 3,978 square feet.
2. Include the stormwater management concept approval letter and Preliminary Plan resolution on the approval or cover sheet(s).
3. The Planning Board accepts the recommendations of the City of Takoma Park Department of Public Works in its Right-Of-Way letter dated October 2, 2015, as modified by Takoma Park City Council Resolution 2016-23, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by City of Takoma Park.
5. The Planning Board accepts the recommendations of the City of Takoma Park Department of Public Works in its stormwater management concept letter dated March 1, 2012, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City's Department of Public Works provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width as mandated by the City of Takoma Park to the design standards imposed by all applicable road codes.
7. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot

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<sup>1</sup> For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

8. The record plat must show necessary easements.
9. Before issuance of any building permit, the Applicant must obtain a Park Permit from the Department of Parks to address the following issues, which may be revised or modified by the Parks Department without having to amend this condition:
  - a. Removal of any encroachments associated with fencing, walls, and dumped debris adjacent to the Subject Property.
  - b. Access requirements associated with the cleanup/removal of encroachments.
  - c. Requirements for proposed storm drain utility installation within the Parkland including recordation of any required easement.
  - d. Provide depths/elevations/inverts of the proposed stormdrain and restore the drain elevation information which had been deleted from the plans.
  - e. All tree protection specifications and measures required to protect Park trees, including a reduction in LOD where feasible.
  - f. Restoration plantings for any disturbed areas within the Park.
  - g. Mitigation for any trees removed from the Parkland.
  - h. Work shall be accessed, performed and staged from the Subject Property to the extent possible.
  - i. The removal of encroachments and any re-grading & restoration work associated with the Parkland must be performed prior to final inspection/building use and occupancy. If the timing of plantings is not seasonally appropriate (at the discretion of Parks Staff) then the Park plantings may be installed within the next growing season.
10. Prior to recordation of any plat, Site Plan No. 820120160 must be certified by MNCPPC Staff.
11. No clearing or grading of the site, or recording of plats prior to Certified Site Plan approval.
12. Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at site plan.

**BE IT FURTHER RESOLVED** that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and

upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

*1. The Preliminary Plan substantially conforms to the Master Plan.*

The Subject Property is located within an area defined by the 2000 *Takoma Park Master Plan* as the Maryland Gateway at Eastern and New Hampshire Avenues. The area was identified as appropriate for less-intensive commercial activity with recommendations to provide for residential transitions and preservation of existing open space.

The Master Plan identified the Subject Property and made specific recommendations related to its land use and development. These recommendations related to the Subject Property's proximity to an existing residential area and its unpermitted use as a storage area for construction materials. As such, while the Master Plan supported the continuation of commercial use on the Subject Property, it also supported code enforcement on its open areas. Additionally, the Master Plan recommended that any development on the site limit its impact on nearby residential areas.

Furthermore, the Master Plan calls for the urban forestry concepts to be applied inside and out of the parks to improve the quality of the urban ecosystem. The Subject Property is located within a sensitive environmental area and all care should be taken to address any potential impact to the area's ecosystem. This would include remediating existing physical conditions that may negatively impact the areas tree canopy and/or steep slopes.

The Application conforms to the recommendations of the Master Plan by constructing a low-intensity, residential-scale single-story commercial use on the Subject Property that minimizes impacts on adjacent residential development by limiting the height of the building, minimizing or eliminating light trespass from the site and, as conditioned, addressing the encroachments from fencing and debris on the adjacent Park land.

*2. Public facilities will be adequate to support and service the area of the approved subdivision.*

The Subject Property currently has vehicular access on Orchard Avenue via a 20-foot wide public alley right-of-way. The project will improve the public alley to a 20-foot wide pavement width in accordance with City of Takoma Park standards. Once completed, the intersection of Orchard Avenue and the public alley will serve as a full-movement site entrance/ exit.

Pedestrian and bicyclist access to the Subject Property will be provided from Orchard Avenue via the public alley. Although there is a sidewalk along the south side of Orchard Avenue, opposite the site frontage, the sidewalk is missing a link on the north side of Orchard Avenue between the public alley and Sligo Mill Road. The Applicant must construct this missing sidewalk link so that the Subject Property is integrated into the pedestrian sidewalk network. Furthermore, this sidewalk would connect with a master-planned sidewalk across *6450 New Hampshire Avenue* (Preliminary Plan 12009021A/ Site Plan 820130080) to the sidewalk and transit network on New Hampshire Avenue. Transit service within a quarter mile of the site includes WMATA Metrobus route F4 on Eastern Avenue, NE and K6 on New Hampshire Avenue.

#### Master Plan Roadways and Pedestrian/Bikeway Facilities

The 2000 *Takoma Park Master Plan* has the following master plan facilities along the Subject Property's frontage:

- Orchard Avenue as a "shared roadway" for bicycles. This connection serves as a "main connection between the major regional bikeways and between important local destinations."

#### Adequate Public Facilities Review

A traffic statement (dated August 15, 2012 and revised December 13, 2014) was submitted for the Application per the *LATR/TPAR Guidelines* because the proposed development is estimated to generate less than 30 peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods. Trip generation calculations show that the development will generate two (2) morning peak-hour trips and three (3) evening peak-hour trips. Since the development generates three or fewer peak-hour trips, the traffic impact is considered to be *de minimis*. The Application satisfies the *LATR* and *TPAR* requirements of the APF review and will provide safe, adequate, and efficient vehicular and pedestrian access.

#### **Other Public Facilities**

The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the *Subdivision Staging Policy* resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The size, width, shape, and orientation of the lot is appropriate for the location of the subdivision, taking into account the recommendations included in the Master Plan, and for the type of development or use contemplated. As discussed above, the Application substantially conforms to the Master Plan. The Application complies with the specific density recommendations for the Subject Property as well as the applicable urban design, roadway, and general recommendations outlined in the Master Plan. As evidenced by the Preliminary Plan, the Subject Property is sufficiently large to efficiently accommodate the proposed use.

Under Section 59-4.5.4 of the Zoning Ordinance, the dimensional standards for the lot will be determined with approval of the site plan.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

This Application is subject to the Chapter 22A, Montgomery County Forest Conservation Law, but is exempt from the requirement to submit a Forest Conservation Plan under Section 22A-5(s)(1), because the proposed activity occurs on a tract of land less than 1.5 acres with no existing forest or existing specimen or champion tree, and the afforestation requirements would not exceed 10,000 square feet. The Forest Conservation Exemption, Application No. 42014025E, was confirmed on September 9, 2013.

The offsite Conservation Parkland will be impacted for the proposed storm drain connection from the Subject Property through the park near the Orchard avenue frontage, and also to address the remediation of existing encroachments. However, once the encroachments are removed and the parkland has been appropriately regraded, mitigation plantings will be installed that will ultimately enhance the screening buffer over the existing conditions relative to the townhomes. The removal of encroachments and any re-grading & restoration work associated with the Parkland must be performed prior to the release of the building permit.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

The City of Takoma Park approved the stormwater management concept on March 1, 2012, for on-site water quality control via porous concrete pavement, a grass swale and the installation of Filterra structures.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 13 2017 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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### CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, June 8, 2017, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board